

DEPT. OF TRANSPORTATION
DOCKETS

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**SERVED NOV 16 2005**US DEPARTMENT OF TRANSPORTATION
OFFICE OF HEARINGS
WASHINGTON, DC

IN THE MATTER OF

PETER L. BRADLEY

FAA DOCKET NO. CP04WP0030
(Civil Penalty Case)
DMS FAA-2005-20532 - 18

MEMORANDUM AND ORDER OF COURT

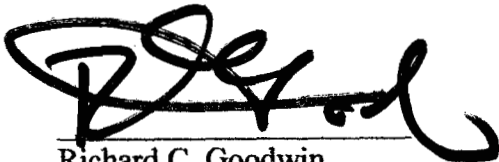
Counsel for the respective parties (the Federal Aviation Administration is hereinafter referred to as "Complainant"; and Peter L. Bradley is hereinafter referred to as "Respondent") have submitted a letter dated November 4, 2005, requesting this matter – which is set for hearing on November 21 and 22, 2005 - be continued. Both Counsel represent the parties agree on the factual allegations of the Complaint. Respondent avers that Complainant would be able to establish the factual allegations set forth in the Complaint by a preponderance of the evidence at a hearing.

The parties agree that based on the factual allegations in the Complaint, the Respondent was charged criminally in the federal district court for the events that transpired on the flight which is the subject of the Complaint. The parties aver the criminal case was dismissed based upon a finding that the Respondent was "legally unconscious" at the time of the incident, which is the basis of the allegations herein.

Respondent has asserted as an affirmative defense that the federal district court's dismissal of the collateral criminal action is *res judicata* as to the facts in this case. Respondent further asserts the finding of "legally unconscious" is binding on this court and that the earlier determination precludes further administrative adjudication by Complainant. Complainant disagrees.

WHEREFORE, the above facts having been averred and considered, it is ORDERED as follows:

1. The matter set for November 21 and 22, 2005, be and is hereby be cancelled.¹
2. On or before December 9, 2005, Complainant and Respondent shall serve a Joint Stipulation of Facts setting forth the precise facts upon which they agree. Attached to the Joint Stipulation of Facts shall be copies of any and all evidence upon which the parties rely to support those facts.
3. Concurrent with the submission pursuant to paragraph #2, the parties shall serve individual statements of any facts upon which they cannot agree, if any. Said statement(s) shall set forth with specificity the basis of the disagreement between the parties and shall have attached thereto any evidence upon which that party relies.
4. On or before December 20, 2005, the parties shall serve a Joint Statement of the precise legal issue(s) to be resolved by the Court. In addition, the parties shall serve individual statements of any legal issue(s), if any, upon which they cannot agree, setting forth specifically the nature of any disagreement.
5. On or before January 27, 2006, Respondent shall serve his brief setting for the basis of his defense(s).
6. On or before February 24, 2006, Complainant shall serve its brief setting forth its position on issues set forth in Respondent's brief.
7. Upon the Court's determination of the underlying legal issue, the parties will be allowed to brief, pursuant to subsequent Order, the appropriateness of a sanction, if any.



Richard C. Goodwin
U.S. Administrative Law Judge

Attachment(s) – Service Lis

¹ This matter may be reset if, at the discretion of the court, it is deemed necessary to resolve this case.

SERVICE LIST

ORIGINAL & ONE COPY

Hearing Docket
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, DC 20591
Att: Hearing Docket Clerk, AGC-430
Wilbur Wright Building – Room 2014¹

ONE COPY

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The Honorable Richard C. Goodwin
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¹ Service was by U.S. Mail. For service in person or by expedited courier, use the following address:
Hearing Docket, Federal Aviation Administration, 600 Independence Avenue, S.W., Wilbur Wright Building – Room
2014, Washington, DC 20591, Att: Hearing Docket Clerk, AGC-430.